



NORTHAMPTON LICENSE COMMISSION

November 6, 2013 Minutes

Commission Chairman William Rosen, Commissioner Stephanie Levin, Commissioner Brian Campedelli

The License Commission will meet at 4:00 p.m., in City Council Chambers, 212 Main Street, Northampton, on the following:

1. **Members present/absent:** Commission Chairman William Rosen, Commissioner Stephanie Levin, Commissioner Brian Campedelli, City Solicitor Alan Seewald
2. **Meeting Called to Order** – Commission Chairman Rosen called the meeting to order at 4:00 p.m.
3. **Announcement of Audio/Video Recording of Meeting** – The meeting was audio-recorded by the Clerk and video-recorded by NCTV
4. **Public Comment**
5. **Letter to Mr. Eric Suher:** Requesting Mr. Suher's attendance regarding License #090000004 Annual All Alcoholic Restaurant and License #090000043 Seasonal All Alcoholic Restaurant
 - City Solicitor Memorandum to Northampton License Commission

Commissioner Rosen referred to City Solicitor Alan Seewald's memorandum dated October 15, 2013. Eric Suher was present and submitted a timeline for 298 Main Street construction project. City Solicitor Seewald provided copies of the Parcel Detail Report to Commissioners and to Mr. Suher.

Mr. Suher stated that he will submit a completed building permit application on Friday, November 8, 2013, per the Massachusetts Building Code 8th Edition.

Commissioner Rosen noted that Mr. Suher was approved in 2008 by the Northampton License Commission, at which time there was neighborhood opposition. Commissioner Rosen questioned why Mr. Suher is now ready to proceed. Mr. Suher answered that structural work is at 100% completion, that he must re-apply for building permits to follow all conditions of new code, this is not a standard project as it is a large facility. There is a new steeple, roof, heating, boiler room, with extensive work. The project costs Mr. Suher much money to sit, and Mr. Suher asked the Commission's cooperation to grant more time to move forward to completion.

Commissioner Rosen noted that the License Commission has been reasonable as this property has not been in operation.

Commissioner Levin questioned "What is the gain for Northampton?" if the licenses are taken. Commissioner Levin noted that the City is over quota on licenses, and questioned that, while the A.B.C.C. may not like these "pocket licenses", the taking of these licenses does not show a gain for the City.

Commissioner Campedelli questioned Mr. Suher as to why he would take 4 ½ years to complete a project, if he knew the licenses were in the balance. Mr. Suher countered that the License Commission has never given him a deadline to complete the project or the License Commission would revoke the licenses. Mr. Suher stated there should be no more obstacles, and would be happy to take time to show Commissioners the facility and completed work. Mr. Suher noted that he appreciated the Commission's patience. Mr. Suher noted the revenue generated by his properties, including the Calvin Theater. Mr. Suher noted that the license sat idle for years after the previous owner's establishment was destroyed by fire. Mr. Suher noted that the projects at these premises would be in peril without the liquor licenses.

Commissioner Rosen commended Mr. Suher's many projects; however, these projects have had no progress or activity. The Northampton License Commission appears to be ignoring Chapter 138, Section 77 and has a duty as a City body to address this situation. Commission Rosen proposed giving this licensee 60 days to be in operation or to transfer the licenses. Mr. Suher stated that he was not able to open in 60 days! The Commission discussed the proposed time limit. Mr. Suher stated that this Commission has never given him a date to be completed.

Commissioner Rosen noted that there have been inquiries for liquor licenses by other potential businesses; it is not doing the City any good for these licenses to be idle. The City is also seeking special legislation for another over-quota license.

Mr. Suher argued that the Commission has not given him a timeframe, and there has been no direct mandate from the Alcoholic Beverages Control Commission (A.B.C.C.) for these licenses. Mr. Suher stated that major work has been completed to open a world-class facility and function hall. Mr. Suher stated, when questioned by Chairman Rosen, that no one has ever contacted him to buy these licenses, and Mr. Suher has no intention to sell the licenses.

Commissioners discussed the licenses and quota system that might not allow further applicants to pursue these licenses if this Commission revoked these licenses from Mr. Suher. Mr. Suher stated that he was asking for time to complete these projects. Mr. Suher stated, to Commissioner Rosen, "You'd rather give up the license than give me time to finish; I must have done something really bad to you at some point." Chairman Rosen stated that Mr. Suher was out of line, and noted he had already given praise for all Mr. Suher's other businesses.

City Solicitor Seewald noted that if the Northampton License Commission gave Mr. Suher a deadline, and if Mr. Suher cannot meet that deadline, it would be Mr. Suher who would be causing those licenses to go away; Mr. Suher has the option to transfer the licenses. The Northampton License Commission further discussed the history of the licenses.

Regarding License #090000043 Seasonal All Alcoholic Restaurant: The Commission voted to require the premise of 26-28 Center Street to be in operation by January 6, 2014.

Regarding License #090000004 Annual All Alcoholic Restaurant: Mr. Suher stated that he would submit new permit information by November 8, 2013. Mr. Suher submitted a project timeline with opening dates of June 14-21, 2014. The Commission voted to require the licensee to provide a copy of the building permit for the premises at 298 Main Street at its meeting on December 4, 2013, and to provide updates at each monthly Commission meeting demonstrating expeditious and continuous work toward completion. The Commission reserved the right to revoke the license prior to the June 21, 2014 completion deadline should the licensee fail to provide monthly updates demonstrating to the Commission's satisfaction that the construction is proceeding expeditiously and continuously toward completion.

Mr. Suher made several offers to walk the License Commission members through the facilities to see the work done. Chairman Rosen stated that the Building Commissioner's opinion would suffice.

The Building Commissioner and Fire Safety Inspector are prepared to speak to the License Commission about these properties on December 4, 2013 when they give their annual report regarding inspections for liquor licensed premises. The Northampton License Commission will vote on December 4, 2013 to approve or disapprove all annual license renewals.

6. Application for Short Term Wine & Malt Liquor License

Trustees of Forbes Library, 20 West Street

Event: Reception for Exhibit: Paintings by Karen Iglehart, Marie Welch, Karen Leveille

Date and Times of Event: Saturday, December 14, 2013 2:00 p.m. – 4:00 p.m.

Insurance information and Servers' information has been provided✓

Fee: \$61.00 - Request Fee Waiver

Faith Kaufmann was present for the application.

Commissioner Levin moved approval of the license, with fee waiver; Commissioner Campedelli seconded. The motion passed unanimously (3-0).

7. Application for Short Term Wine & Malt Liquor License

Academy of Music Theatre, 274 Main Street

Event: The Sweetback Sisters: Country Christmas Sing-a-long Spectacular

Date and Times of Event: Friday, December 20, 2013 6:30 p.m. – 11:00 p.m.

Insurance information and Servers' information has been provided✓

Fee: \$61.00 - Request Fee Waiver

Academy of Music Theatre, 274 Main Street

Event: Mass Laughs Comedy Show

Date and Times of Event: Saturday, November 30, 2013 7:00 p.m. – 10:00 p.m.

Insurance information and Servers' information has been provided✓
Fee: \$61.00 - Request Fee Waiver

Alison Klenja was present for the applications.

Commissioner Levin moved approval of the licenses, with fee waivers; Commissioner Rosen seconded. The motion passed unanimously (3-0).

8. Application for Short Term Wine & Malt Liquor License

Silverscape Designs, Inc., 1 King Street
Event: Holiday Celebration Sales Event
Date and Times of Event: Sunday, December 1, 2013 12:00 p.m. – 5:00 p.m.
Insurance information and Servers' information has been provided✓
Fee: \$61.00

Lorrie Motyka was present for the application.

Commissioner Levin moved approval of the license; Commissioner Campedelli seconded. The motion passed unanimously (3-0).

9. Application for New Common Victualler License

NBZ, Inc. d/b/a Smithsonian Café & Chowder House
One Roundhouse Plaza, Northampton, MA
Proposed Manager: Peter Langlois
Fee: \$50.00

Nicholas Langlois, representing Peter Langlois, was present for the application. The owners have Smithsonian Café & Chowder House establishments in Hatfield, MA and Greenfield, MA.

Commissioner Levin moved approval of the New Common Victualler license; Commissioner Campedelli seconded. The motion passed unanimously (3-0).

10. Application for Short Term Wine & Malt Liquor License

Signature Sounds d/b/a Parlor Room, 32 Masonic Street
Event: Holiday Craft Fair
Date and Times of Event: Saturday, November 23, 2013 12:00 p.m. – 8:00 p.m.
Insurance information is pending
Servers' information has been provided✓
Fee: \$61.00

Jim Olsen was present for the application. The event will feature table snacks provided by International Language Institute and Woodstar Café. The event is a fundraiser.

Commissioner Rosen moved approval of the license; Commissioner Levin seconded. The motion passed unanimously (3-0).

11. Discussion: City Council Order to Seek Special Legislation to Allow the Issuance of An Annual All Alcoholic Hotel License (Over Quota) (*Referred by City Council October 3, 2013*)

The Commission discussed the Order, which will have first reading at the November 7, 2013 City Council meeting. No vote of this Commission is requested. Commissioner Rosen explained that the legislation process could be lengthy.

12. Approval of Minutes of October 1, 2013

Commissioner Levin moved approval of the minutes of October 1, 2013; Commissioner Campedelli seconded. The motion passed unanimously (3-0).

13. Approval of Certification of Estimated Resident Population of 28,549 as of July 10, 2014.

The Clerk explained that the estimate is obtained from the City Clerk, based on the 2010 census; Commissioners signed the certification to be sent to the A.B.C.C. with annual renewals.

14. Notice of Violation Hearing to be held Wednesday, December 4, 2013

LICENSE #090000033 and Entertainment License #426
One Pearl Street, Inc. d/b/a Tully O'Reilly's and The Elevens
1-5 Pearl Street, Northampton, MA
Manager: Tully J. McColgan
Date of Violation: October 20, 2013

Commissioners discussed the upcoming violation hearing by referring to the September 4, 2013 Violation Hearing decision of this Commission, and follow-up discussion with the manager of The Elevens on October 1, 2013(see attached).

15. NEW BUSINESS – *Reserved for topics that the Chair did not reasonably anticipate would be discussed.*

The Clerk noted an email from Building Commissioner Hasbrouck regarding liquor licensed premises' inspections (attached). The Building Commissioner and Fire Safety Inspector will give a full report at the December 4, 2013 License Commission meeting.

The Clerk presented the PENDING agenda of December 4, 2013, including Approval/Disapproval of Renewal of Annual Liquor Licenses per A.B.C.C. instructions. Ms. Midura explained that the License Commission, in a public meeting, must formally approve or disapprove licenses renewed in November. Several licensees have extenuating circumstances to be considered.

At 6:01 p.m., Commissioner Rosen moved to adjourn and was seconded by Commissioner Campedelli. The motion to adjourn passed unanimously (3-0).

The next meeting of the Northampton License Commission is December 4, 2013.

Contact:
Mary L. Midura
Executive Secretary
mmidura@northamptonma.gov
413-587-1210



SEEWALD, JANKOWSKI & SPENCER, P.C.

ATTORNEYS AT LAW

Five East Pleasant Street ♦ Amherst, MA 01002

Alan Seewald
Deborah T. Jankowski
Robert J. Spencer
Kristi A. Bodin
Danielle S. Michaud

Tel (413) 549-0041

Fax (413) 549-3818

as@sjsamherst.com
www.sjsamherst.com

October 15, 2013

William Rosen, Chair
Northampton License Commission
City of Northampton
210 Main Street
Northampton, MA 01060

RE: Alcoholic Beverage License - Failure to Operate Licensed Business
License Nos. 090000004 and 09000043

Dear Mr. Rosen:

You have requested my opinion with regard to the above-referenced licenses. I understand that the licensees holding the above-referenced licenses, 4 West S Corporation and 26-28 Center Street LLC, have failed to operate the licensed business on the licensed premises. For the following reasons, it is my opinion that these licenses constitute so-called "pocket licenses," and that the Northampton License Commission has a substantial basis to revoke the licenses and/or to decline to renew them.

Factual Background as to Licence 090000004 - 4 West S Corporation

The license issued to 4 West S Corporation is an annual all alcohol restaurant license for the premises at 298 Main Street, formerly the Old Baptist Church. The corporation was formed in 2000. The current owner of the premises, 298 Main Street, LLC, acquired the property from Eric Suher, in 2006. On November 19, 2008, the ABCC approved the transfer of the subject license from Pudding Lane, Inc. at 5 Bridge Street to the current licensee and licensed premises. Since the transfer of the license, the premises has never been opened for business. According to the records of the Office of the Building Commissioner, the last permit issued for this location was an electrical permit for new service and wiring issued on May 22, 2008. There are no open building permits for the subject premises.

Factual Background as to Licence 090000043 - 26-28 Center Street LLC

The license issued to 26-28 Center Street LLC is a seasonal all alcohol restaurant license for the premises at 26-28 Center Street. This license is subject to conversion to an annual license in accordance with St. 2008, c. 144. The company was formed in 2006. The current owner, Suher Properties, LLC, acquired the property from Joan L. Shea, in 2005. On February 18, 2009, the ABCC approved the transfer of the subject license from 4 West S Corporation at 298 Main Street to the current licensee and licensed premises. Since the transfer of the license, the premises has never been opened for business. According to the records of the Office of the Building Commissioner, the last permit issued for this premises was a building permit to renovate drop ceilings issued on April 23, 2009. There are no open building permits for the subject premises.

The principal of both of these licensees, Eric Suher, was called before this Commission on October 3, 2012. At that time he stated that the premises at 298 Main Street had been under construction for four years and that he was hopeful that it would open in late fall or early winter. As to the Center Street premises, Mr. Suher alleged that the renovation was delayed due to the construction of the police station. Mr. Suher was called before the Commission again on March 6, 2013, in advance of the renewal of the seasonal license for the Center Street premises. He did not appear at the hearing, but he sent an email to the Clerk of the Commission stating that he expected to open the Center Street premise by June 1st. Mr. Suher was once again called before the Commission on June 5, 2013, at which time he stated that the Center Street premises may open in early fall 2013 and the Main Street location by late fall 2013. Since his initial meeting with the Commission last October, Mr. Suher has not renewed any permits necessary to complete the renovations at the two premises, and according to the Building Commissioner neither location is close to ready for occupancy.

Analysis

As the ABCC made clear in its Notice to All Retail Licensees, dated September 28, 2004, a licensee must conduct the licensed business on the license premises. As the ABCC stated: "Any licensee that does not comply with its obligations to conduct the licensed business and holds a so-called 'pocket license' will be subject to enforcement action by the Commission." The licenses held by 4 West S Corporation and 26-28 Center Street LLC are without question pocket licenses. The clear legislative policy against allowing such pocket licenses is embodied in M.G.L. c. 138, § 77, which authorizes the local licensing to cancel any license where the license holder "ceases to conduct the licensed business." While the licenses held by 4 West S Corporation and 26-28 Center Street LLC may not fit squarely within the language of § 77 inasmuch as the licensed premises were never opened for business and, therefore, could not be found to have ceased the conduct of business, the failure to commence business falls within the clear intent of the statute. In my opinion, the Commission may cancel the subject licenses upon a finding that the licensees have failed after a reasonable period of time to conduct the licensed business.


William Rosen, Chair
Northampton License Commission
October 15, 2013
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In addition, M.G.L. c. 138, § 16A provides that a licensee who applies for renewal in November is prima facie entitled to the renewal. However, an applicant has no absolute right to the renewal, and a licensing authority may "reject for cause" any such application. *Id.*; *Piona v. Selectmen of Canton*, 333 Mass. 510, 511 (1956). In my opinion, the failure to conduct the licensed businesses constitutes "cause" for rejecting the renewal applications for these premises, particularly where, as here, that failure extends over several years.

To the extent that the Commission is inclined to take action against these licensees, my advice is that the Commission proceed on both bases as set forth above.

Please let me know if the Commission needs any further information in this regard.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Alan Seewald', written over a horizontal line.

Alan Seewald
Northampton City Solicitor

AS/A

xc: Mayor David J. Narkewicz

298 Main Street/4 West Street Construction Project timeline since June 5

June 5: License Hearing
June 6-14 Various conversations with Dave Claxton, project manager/GC, and Tom Douglas, architect, regarding construction completion. Discussions with Frawley Engineering regarding building permit application.

July-Oct Multiple discussions and review to comply with the new Massachusetts Building Code 8th Edition, including discussions with Northampton Building Inspector, architect, project manager and structural engineer and other sub contractors. Preparation of code review to meet new building standards.

Nov 8 Structural code review expected from Frawley Engineers to be submitted to architect.

Nov 11-15 Submission of completed building permit application

Balance of work to commence upon receipt of new building permit.

June 14-21 Soft opening party and opening week events.

A written construction update will be sent to License Commission on a monthly basis until the construction has been completed. This update will include a synopsis of all work completed within the monthly time frame, signed by the project manager.

SUBMITTED NOVEMBER 6, 2013
BY MR. ERIC SUHER TO
NORTHAMPTON LICENSE
COMMISSION.

Mary L. Medina
EXECUTIVE SECRETARY
11/6/2013

Parcel Detail Report

Printed On: Thu Oct 03, 2013

GIS #:	9677	Address:	298 MAIN ST	Scenic Road:	No
Map:	31D	District:	30200	Scenic View:	No
Block:	098	Sewer:		Scenic River:	No
Lot:	001	Water:		Wetlands ?	No
Zoning:	CB(100)/	Subdivision		Resource Area:	
Land Use:	361	(Lot #):		FEMA Flood Zone	
Comments:					

Owners of Record

Name	Mailing Address	Record Date	Book	Page	Tax Id
298 MAIN STREET LLC	P O BOX 790 HOLYOKE, MA 01041				31D-098-001

Structures

Type of Structure	Address	Use Group	# of Units	# of Baths	Max Occupancy	Tax Id
	298 MAIN ST		0	0		31D-098-001

Permit History

Type:	Permit No:	Issue Date	Status	Work Category	Contractor	Project No:	Description of Work:
Electrical	EP-2008-0892	May-22-2008	APPROVED	NEW SERVICE & WIRING	DAVID R NORTHUP ELECT	JS-2008-000888	800 amp service & wiring renovation
Electrical	EP-2008-0516	Dec-12-2007	APPROVED	new service	EASTHAMPTON ELEC SER	JS-2008-000888	New underground service & one meter
Electrical	EP-2009-0055	Jul-17-2008	APPROVED	TEMP CONTROLS	WIEMERS ELECTRIC	JS-2008-000888	Temperature controls
Gas	GP-2008-0291	Feb-19-2008	APPROVED	GAS FIXTURES	M J MORAN INC	JS-2008-000888	Bsmnt - range, oven, fryer, char broiler, fireplace 2nd flr - heating boiler 3rd flr - 3 rooftop units, make up air unit
Plumbing	PP-2009-0041	Aug-01-2008	APPROVED	BACKFLOW PREVENTER	M J MORAN INC	JS-2008-000888	Backflow preventer
SPR	PLN-2007-0041	Jul-28-2006	Approved			JS-2007-001094	Remove existing basement window for conversion to a door and stairway to lead to a new grade level deck
Building	BP-2007-0185	Sep-14-2006	APPROVED	renovation	PIONEER CONTRACTORS	JS-2007-000282	RENOVATE INTERIOR, NEW ROOF SYS, MECHANICALS, FIRE SUPPRESSION & DETECTION & ELEVATOR
Electrical	EP-2007-0201	Sep-05-2006	APPROVED	TRENCHING	DAVID P FOSTER JR	JS-2007-000282	INSTALL U/G PIPING FOR SERVICE (PIPE ONLY)

Parcel Detail Report

Printed On: Thu Oct 03, 2013


Plumbing	PP-2008-0101	Sep-06-2007	APPROVED	Plumbing	M J MORAN INC	JS-2007-000282	12 WTR CLOSETS,12 LAVS,SHOWER STALL,DISHWASHER,DISPOSER,W TR TANK,4 SLOP SINKS,14 FLOOR DRAINS,2 URINALS,PIPING,BACKFLOW,GRE ASE TRAP,2,3 PREPSINKS,4HAND SINKS,3 ICEMAKERS
ZONING PERMIT APPLIC MP-2007-0042		Dec-07-2006	APPROVED	Zoning Permit		JS-2007-000282	ZPA - INCREASE REAR ROOF HEIGHT FOR HVAC EQUIP
Building	BP-2006-0762	Feb-06-2006	APPROVED	Non structural interior renovation	PIONEER CONTRACTORS	JS-2006-001172	REPAIR/REPLACE FLOOR FRAMING & SUBFLOOR & REPAIR ROOF AREAS, 5/10/06 - INTERIOR DEMOLITION

Inspection History

Inspection Type	Status	Inspection Date	Next Insp By	Inspector	Inspection Class	Structure No	Reference No	GeoTMS Module
FINAL	PARTIAL COMPLY	10/7/2010		George Fournier	Construction		EP-2008-0892	Building, Electrical & Mechanical Permits
SERVICE	PASSED	10/29/2008		George Fournier	Construction		EP-2008-0892	Building, Electrical & Mechanical Permits
SITE	REQUESTED	11/6/2007		Louis Hasbrouck	Construction		BP-2007-0185	Building, Electrical & Mechanical Permits
FINAL	REQUESTED			George Fournier	Construction		EP-2008-0892	Building, Electrical & Mechanical Permits

Parcel Detail Report

Printed On: Thu Oct 03, 2013

	GIS #:	9771	Address:	24 CENTER ST	Scenic Road:	No
	Map:	31D	District:	30200	Scenic View:	No
	Block:	149	Sewer:		Scenic River:	No
	Lot:	001	Water:		Wetlands ?	No
	Zoning:	CB(100)/	Subdivision		Resource Area:	
	land Use:	31	(Lot #):		FEMA Flood Zone	
Comments:						

Owners of Record

Name	Mailing Address	Record Date	Book	Page	Tax Id
SUHER PROPERTIES LLC	P O BOX 790 HOLYOKE, MA 01041				31D-149-001

Structures

Type of Structure	Address	Use Group	# of Units	# of Baths	Max Occupancy	Tax Id
	24 CENTER ST		8	0		31D-149-001

Permit History

Type:	Permit No:	Issue Date	Status	Work Category	Contractor	Project No:	Description of Work:
Building	BP-2009-0855	Apr-23-2009	APPROVED	renovation	STEVEN T CZUPRYNA	JS-2009-001261	repair drop ceilings
Building	BP-2009-0835	Apr-16-2009	APPROVED	renovation	STEVEN T CZUPRYNA	JS-2009-001190	REMODEL KITCHEN & BATH
Electrical	EP-2009-0656	Apr-02-2009	APPROVED	WIRING FOR RENOVATION	MARION ELECTRIC INC	JS-2009-001190	Partial apartment remodel
Plumbing	PP-2009-0279	Apr-03-2009	APPROVED	PLUMBING RENOVATION	BOGACZ & SON MECHANICAL	JS-2009-001190	2nd flr-wc,kit snk,jav,tub,hot wtr tnk,piping
Electrical	EP-2009-0291	Sep-30-2008	APPROVED	COMMERCIAL RENO WIRING	ROMEO L BEAULIEU & SO	JS-2009-000477	Relocate wiring for office renovations
Plumbing	PP-2006-0494		OPEN		SCHNEIDER PLG & HTG	JS-2006-001855	REPLACE TUB, H/W TANK
Building	BP-2006-1048	Apr-13-2006	APPROVED	signs		JS-2006-001550	ERECT HANGING SIGN - NORTHAMPTON CHIROPRACTIC & WELLNESS CENTER
Building	BP-2005-0757	Feb-03-2005	APPROVED	Non structural interior renovation	ALAN HOUGHTON	JS-2005-001058	MOVE DOOR & ADD COUNTER SPACE
Building	BP-2005-0002	Jul-01-2004	APPROVED	demolition	ALAN HOUGHTON	JS-2005-000002	DEMO INTERIOR NON BEARING WALLS
Building	BP-2005-0022	Jul-19-2004	TEMP CO 30 DAY	Non structural interior renovation	ALAN HOUGHTON	JS-2005-000002	CONSTRUCT INTERIOR WALLS

Parcel Detail Report

Printed On: Thu Oct 03, 2013

Building	BP-2005-0198	Aug-24-2004	APPROVED	signs	JS-2005-000002	ERECT NON-ILLUM PROJECTING SIGN - RICE'N EASY
Building	BP-2005-0199	Aug-24-2004	APPROVED	signs	JS-2005-000002	ERECT NON-ILLUM FRONT WALL SIGN - RICE'N EASY
Electrical	EP-2005-0166	Aug-19-2004	SIGNED OFF	FIRE ALARM SYSTEM	INDUSTRIAL RESIDENTIAL JS-2005-000002	ADD TO EXISTING BLDG FIRE ALARM SYSTEM
Electrical	EP-2005-0079	Jul-29-2004	APPROVED	renovation	RICHARD SHEA ELECTRIC JS-2005-000002	MINOR RENOVATIONS
Plumbing	PP-2005-0079	Aug-25-2004	SIGNED OFF	Commercial renovation	MAL CICHY PLG & HTG IN JS-2005-000002	RENO: W/C, LAV, H/W TANK, WATER PIPING, 3 SINKS
Electrical	EP-2003-1149	Jun-30-2003	APPROVED		INDUSTRIAL RESIDENTIAL JS-2003-001900	REPLACE FIRE ALARM PANEL, ADD FIRE ALARM EQUIP
Building	BP-2003-1193	Jul-01-2003	SIGNED OFF	Non structural interior renovation	ALAN HOUGHTON JS-2003-001766	INTERIOR RENOVATIONS FOR DR TANNY'S OFFICE
Electrical	EP-2003-1075	Jun-04-2003	SIGNED OFF	ELECTRICAL	MARC R BUSSIERE JS-2003-001766	NEW PLUGS IN WALL PARTITIONS AND PANEL CHANGE
Electrical	EP-2003-1087	Jun-10-2003	SIGNED OFF		JS-2003-001766	LOW VOLTAGE DATA/COMMUNICATION NETWORK WIRING
Electrical	EP-2004-0054	Jul-18-2003	APPROVED	ELECTRICAL	BERGERON ELECTRICAL S JS-2003-001766	WATER HEATER
Plumbing	PP-2003-0625	Jun-10-2003	APPROVED	NEW FIXT	BOULANGER'S PLBG & HT JS-2003-001766	NEW: W/C, LAV
Plumbing	PP-2004-0008	Jul-09-2003	APPROVED	renovation	BOULANGER'S PLBG & HT JS-2003-001766	2 ELONGATED TOILETS & SEATS
Building	BP-2003-1082	Jun-02-2003	APPROVED	signs	JS-2003-001714	ERECT ILLUM FRONT WALL SIGN - ENDLESS KNOT
Building	BP-2003-1050	May-23-2003	APPROVED	Non structural interior renovation	RICHARD SHEA(NOT AN E JS-2003-001673	REPAIR FIRE ESCAPE
Building	BP-2001-0788	Apr-12-2001	APPROVED	signs	JS-2001-001475	ERECT PROJECTING SIGN - MEDIA ED FOUNDATION
Building	BP-2001-0757	Mar-29-2001	APPROVED	signs	SEIGEL SIGNS JS-2001-001424	ERECT NON-ILLUM FRONT HANGING SIGN 2' x 8' - WILD RAGS
Building	BP-2001-0758	Mar-29-2001	APPROVED	signs	SEIGEL SIGNS JS-2001-001424	ERECT NON-ILLUM PROJECTING SIGN 11" X 32" - WILD RAGS
Electrical	EP-2000-0581	Feb-04-2000	APPROVED		ADT SECURITY SERVICES JS-2000-001292	LV WIRING

Complaint History

Complaint No.:	Status:	Date Recorded:	Category	GeoTMS Module:	Complaint:
CT-2009-000184	3 - Under Review	Jan-03-2009	Burst frozen water line	Building, Electrical & Mechanical Per	Water running from broken water line second floor

Parcel Detail Report

Printed On: Thu Oct 03, 2013

Inspection History

Inspection Type	Status	Inspection Date	Next Insp By	Inspector	Inspection Class	Structure No	Reference No	GeoTMS Module
ROUGH/FRAMING	Full Comply	3/30/2010		Louis Hashbrouck	Construction		BP-2009-0835	Building, Electrical & Mechanical Permits
FINAL	SIGNED OFF	9/3/2004	1/1/1900	Stanley Szewczyk	Construction		BP-2005-0022	Building, Electrical & Mechanical Permits
ROUGH/FRAMING	PASSED	8/31/2004	1/1/1900	Stanley Szewczyk	Construction		BP-2005-0022	Building, Electrical & Mechanical Permits
ROUGH/FRAMING	PASSED	8/3/2004	1/1/1900	Stanley Szewczyk	Construction		BP-2005-0022	Building, Electrical & Mechanical Permits
FINAL	SIGNED OFF	11/13/2003	1/1/1900	Stanley Szewczyk	Construction		BP-2003-1050	Building, Electrical & Mechanical Permits
FINAL	PASSED	8/15/2003	1/1/1900	Stanley Szewczyk	Construction		BP-2003-1193	Building, Electrical & Mechanical Permits
FINAL	REQUESTED	8/5/2003	1/1/1900	George Fournier	Construction		EP-2003-1149	Building, Electrical & Mechanical Permits
FINAL	Partial Comply	7/8/2003	1/1/1900	Charles J. Mazeski	Construction		PP-2003-0625	Building, Electrical & Mechanical Permits

**City of Northampton
MASSACHUSETTS**

In City Council, October 3, 2013

Upon the recommendation of Mayor David J. Narkewicz and Committee on Economic Development, Housing and Land Use

Ordered, that

- Whereas, the City of Northampton wishes to continue to encourage the growth and stability of the hospitality industry in Northampton; and
- Whereas, the construction of a new hotel on Conz Street will add to the tax base, create jobs and bring additional revenue to Northampton businesses.
- Whereas, the ability to operate a successful hotel requires the use of an Annual All Alcoholic Hotel license; and
- Whereas, the City of Northampton is over its quota for pouring licenses established in section 17 of Chapter 138 of the Massachusetts General Laws; and
- Whereas, special Legislation is necessary to allow the City of Northampton to issue an over quota Annual All Alcoholic Hotel license to ensure the economic vitality and stability in the City of Northampton.

NOW, THEREFORE, BE IT ORDERED:

That the Mayor is authorized and directed to seek special legislation as follows:

An Act authorizing the City of Northampton to issue an above quota Annual All Alcoholic Hotel license.

Be it enacted by the Senate and House of Representative in General Court assembled, and by the authority of the same, as follows:

Section 1. Notwithstanding section 17 of Chapter 138 of the General Laws, the licensing authority of the City of Northampton may issue one above quota innkeeper license. This license shall be subject to all of the provisions of said Chapter 138 except section 17. The licensing authority shall not approve the change of location of the license. Failure to use and/or operate the license for six (6) consecutive months may result in a License Commission hearing and the license reverting back to the City for re-issuance.



City of Northampton, Massachusetts
License Commission
City Hall, 210 Main Street
Northampton, MA 01060
(413) 587-1210 Fax: (413) 587-1264

William Rosen, Chair
Mary L. Midura, Executive Secretary

October 25, 2013

One Pearl Street, Inc.
d/b/a Tully O'Reilly's and The Elevens
1 Pearl Street
Northampton, MA 01060

RE: *Violation of Northampton License Commission Decision of September 4, 2013:*

Violation of 204 CMR Regulations of the Alcoholic Beverages Control Commission 204-2.05 (2) No Licensee for the sale of alcoholic beverages shall permit any disorder, disturbance or illegality of any kind to the place in or on the licensed premises. The licensee shall be responsible therefore, whether present or not.

Violation Hearing Date: July 24, 2013

Decision: Continued to September 4, 2013

Violation Hearing Date Continuance September 4, 2013:

Decision: Unanimous vote violation had occurred. Seven (7) day suspension, two (2) days suspended for one (1) year to September 4, 2014, to be dismissed from the record upon no further violations, five (5) days' suspension to be served (September 16-20, 2013) by the licensee. Further sanction to amend Entertainment License #426 to eliminate Disc Jockey.

Violation of Northampton License Commission Rules and Regulations, including 2:00 a.m. Closing Rules.

One Pearl Street, Inc. d/b/a Tully O'Reilly's and The Elevens
1 Pearl Street, Northampton, MA 01060
License #090000033

Date of Violations: October 20, 2013

NOTICE OF HEARING

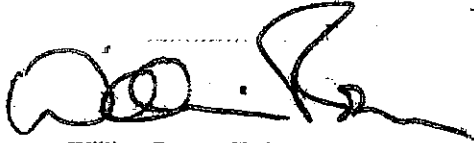
Dear Mr. McColgan:

You are hereby notified that the Northampton License Commission will hold a **Violation Hearing on Wednesday, December 4, 2013 at 4:00 p.m.** in City Council Chambers, Wallace J. Puchalski Municipal Building, 212 Main Street, Northampton MA to determine if One Pearl Street, Inc. d/b/a Tully O'Reilly's and The Elevens is in *Violation of Northampton License Commission Decision of September 4, 2013, as stated above, and Violation of Northampton License Commission Rules and Regulations, including 2:00 a.m. Closing Rules.*

Enclosed is a copy of the Northampton Police Department report dated October 23, 2013. You are requested and entitled to be present at this violation hearing, to be represented by counsel, to present and cross-examine witnesses and to speak and offer evidence on your own behalf. Please be prepared with all the information you wish to present.

If you have any questions, please contact me at 413-587-1210.

Very truly yours,

A handwritten signature in black ink, appearing to read 'William Rosen', with a stylized flourish extending to the right.

William Rosen, Chair

WR/mlm

Enclosures

cc: Northampton Police Department
Attorney Diane Fernald, 69 South Pleasant Street, Suite 201, Amherst, MA
01002-2249

CERTIFIED MAIL #7010 2780 0002 3875 9823
RETURN RECEIPT REQUESTED
POSTAGE PREPAID MAIL

Commonwealth of Massachusetts

Hampshire, ss:

**To: Tully J. McColgan
116 Pearl Street
Northampton, MA 01060**

You are hereby commanded, in the name of the Northampton License Commission, to appear before the said Northampton License Commission holden at City Council Chambers, Wallace Puchalski Municipal Building, 212 Main Street, Northampton, Massachusetts, on the 4th day of December, 2013 at 4 o'clock in the afternoon, and from day to day thereafter, until the action hereinafter named is heard by said Commission, to give evidence of what you know relating to liquor law violations to be heard regarding:

*One Pearl Street, Inc. d/b/a Tully O'Reilly's and The Elevens
License #090000033*

DATE OF VIOLATION: October 20, 2013

Hereof fail not, as you will answer your default under the pains and penalties in the law in that behalf made and provided.

Dated at Northampton the Twenty-Fifth day of October, A. D. 2013.

On Behalf of the Northampton License Commission

May L. Smidura



*May L. Smidura
Clerk of the
Commonwealth of Massachusetts
My Commission Expires
October 27, 2013*

Commonwealth of Massachusetts

Hampshire, ss:

To: John St. Onge
116 Pearl Street
Northampton, MA 01060

You are hereby commanded, in the name of the Northampton License Commission, to appear before the said Northampton License Commission holden at City Council Chambers, Wallace Puchalski Municipal Building, 212 Main Street, Northampton, Massachusetts, on the 4th day of December, 2013 at 4 o'clock in the afternoon, and from day to day thereafter, until the action hereinafter named is heard by said Commission, to give evidence of what you know relating to liquor law violations to be heard regarding:

*One Pearl Street, Inc. d/b/a Tully O'Reilly's and The Elevens
License #090000033*

DATE OF VIOLATION: October 20, 2013

Hereof fail not, as you will answer your default under the pains and penalties in the law in that behalf made and provided.

Dated at Northampton the Twenty-Fifth day of October, A. D. 2013.

On Behalf of the Northampton License Commission

Mary L. Medina



MARY L. MEDINA

Secretary Public

Commonwealth of Massachusetts

My Commission Expires

October 29, 2014



NORTHAMPTON POLICE DEPARTMENT

Russell P. Sienkiewicz
CHIEF OF POLICE

23 OCT 2013

Northampton License Commission
Attn: Ms. Mary Midura, Executive Secretary
Northampton City Hall
210 Main Street
Northampton, MA 01060

SUBJECT: Request for a License Commission Hearing

Dear License Commission:

Enclosed is an application for a hearing for violations committed on the morning of 20 October 2013 at The Elevens by liquor license holder, Tully O'Reilly's. On that date at approximately 12:10 a.m., officers conducted a liquor establishment check at The Elevens, 116 Pleasant Street.

As you know, The Elevens serves alcoholic beverages under the liquor license issued to Tully O'Reilly's. The officers were aware that Tully O'Reilly's liquor license had been modified by the License Commission to limit entertainment to live music only and to prohibit the use of DJs.

The officers were met by Mr. John St.Onge of The Elevens. Mr. St. Onge provided the officers with a letter (copy included) which stated that the bar was hosting live (improvisation) music, which included the use of turntables, laptops and headphones.

Upon checking the performance, the officers did not observe any singing or use of musical instruments. They did see the use of laptops, records being put on turntables and the playing and mixing prerecorded music together. The officers heard a male on stage refer to himself as a 'DJ'. The officers also noted the sound level of the music was very loud and could be heard outside on the busy street.

The officers also noticed numerous fliers (copy included) around the bar advertising the performance at The Elevens. The flier mentioned that the performer introduced "jungle DJing stateside".

While at The Eleven, the officers inspected the bar log, required for establishments with 2:00 a.m. closings. However, the officers found nothing entered on the log for that night.

29 CENTER STREET, NORTHAMPTON, MA 01060-3090 (413) 587-1100 FAX (413) 587-1137

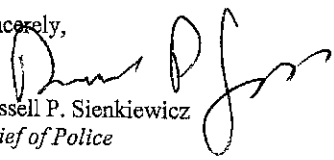
It is clear from the observations of the officers that the venue at The Elevens was not a live music event. Rather, it was the playing and mixing of prerecorded electronic music by a DJ. The police department contends that this is a violation of the Commission's modification to Tully O'Reilly's liquor license, which specifically prohibits performances by a DJ.

Furthermore, it is the police department's contention that the license holder violated the Commission's rules and regulations for 2:00 a.m. closings by not properly maintaining a bar log.

Enclosed is the Application for a License Commission Hearing, as well as a copy of the officers' incident report. Also included, for the edification of the Commission, is a copy of the definition of a "DJ".

Your prompt action on this request would be appreciated.

Sincerely,


Russell P. Sienkiewicz
Chief of Police

Enclosures (5)

cc: Lieutenant Alan C. Borowski



Northampton Police Department
Application for License Commission Hearing



Date of violation: 10/20/13 Time of violation: 00:11 Incident Number: 13-2912-OF

Violating Business

Complete legal name of business The Elevens
Complete legal address 116 Pleasant Street Northampton MA 01060
Business Telephone Number 413-584-4100

Type of License All Alcohol and Restaurant License Number 33
Entertainment 426

Manager of Business

Name of Manager Tully J. McColgan
Home Address 125 Pomeroy Road
Southampton, MA 01073
Home Telephone 413-527-2568

Employee Committing the Violation

Name of Employee Tully J. McColgan
Home Address 125 Pomeroy Road
Southampton, MA 01073
Home Telephone 413-527-2568

Person In Charge of the Business at Time of Violation

Person In Charge John St. Onge
Home Address 16 Wright Ave
Northampton, MA 01060
Home Telephone 413-237-3550

Witness Number One

Name of Witness
Age of Witness Date of Birth
Home Address
Home Telephone

Witness Number Two

Name of Witness
Age of Witness Date of Birth
Home Address
Home Telephone

Witness Number Three

Name of Witness
Age of Witness Date of Birth
Home Address
Home Telephone

Violations Alleged (State specific violations of state law and/or License Commission Regulation, including the Chapter and Sections):

Synopsis of circumstances of violation(s) (short, but detailed summary of the facts of the incident, establishing probable cause for the incident)

The Elevens, who operates on a joint license with Tully O'Reilly's, was found hosting an event outside the parameters of their license by having a DJ performing. The bar was also found to have not adequately completed required documents, namely the bar log as required by the License Commission for businesses operating with extended hours.

Persons to be Subpoenaed (police officers, violators, witnesses, manager, etc)

Name: Sgt. Josef Barszcz
Address: 29 Center Street
Northampton, MA 01060

Name: Ofc. John Perry
Address: 29 Center Street
Northampton, MA 01060

Name: Ofc. William LeBrun
Address: 29 Center Street
Northampton, MA 01060

Name: Tully J. McColgan
Address: 116 Pleasant Street
Northampton, MA 01060

Name: John St. Onge
Address: 116 Pleasant Street
Northampton, MA 01060

Name:
Address:

Is a Criminal Complaint Also Being Sought? ☐ Yes ☒ No

Reporting Officer Name: John Perry

ID: 223

Signature of Reporting Officer

Date 10-20-13

Approved by the Chief of Police

Date



Northampton Police Department
Incident Report

Page: 1
10/20/2013

Incident #: 13-2912-OF
Call #: 13-34146

Date/Time Reported: 10/20/2013 0011
Report Date/Time: 10/20/2013 0237
Status: No Crime Involved

Reporting Officer: Patrol Officer John Perry - 4859
Assisting Officer: Patrol Officer William LeBrun - 4858

Signature: _____

EVENTS(S)

LOCATION TYPE: Bar/Night Club Zone: Main Footbeat Lower
THE ELEVEN'S
116 PLEASANT ST
NORTHAMPTON MA 01060

1 LIQUOR LICENSE VIOLATION

PERSON(S)

PERSON(S)	PERSON TYPE	SEX	RACE	AGE	SSN	PHONE
1 THE ELEVENS 116 PLEASANT ST NORTHAMPTON MA 01060 CONTACT INFORMATION: Work Phone (Primary) 413-584-4100	BUSINESS					413-584-4100
2 STONGE, JOHN M 16 WRIGHT AVE NORTHAMPTON MA 01060-3825 DOB: 06/15/1973 EMPLOYER: THE ELEVENS 413-584-4100 CONTACT INFORMATION: Home Phone (Primary) 413-237-3550 Work Phone (Primary) 413-584-4100	PARTICIPANT	M	W	40		413-237-3550

NARRATIVE FOR PATROL OFFICER JOHN R PERRY - 4859

Ref: 13-2912-QF

Entered: 10/20/2013 @ 0317

Entry ID: 223

Modified: 10/20/2013 @ 0317

Modified ID: 223

On Sunday, October 20, 2013 at approximately 00:10 hours, Officer LeBrun and I (Officer Perry) initiated a "liquor establishment check" of The Elevens located at 116 Pleasant Street in Northampton. It should be noted that The Elevens and Tully O'Reilly's share a single liquor license which due to past events has been modified allowing the business's to operate selling liquor and having live music entertainment only. DJ's are now prohibited forms of entertainment on these establishments issued license.

Almost immediately upon entering The Elevens, Officer LeBrun and I were met by a staff member who handed us a letter written by John St. Onge who on the letter identifies himself as the manager and booking coordinator for The Elevens. This letter attempts to explain the event which the bar was hosting on this night as "live music." The genre is described as "DRUM and BASS," and there is a lengthy explanation of how laptops, turntables and headphones are used in this genre. A copy of the letter has been attached to this report.

St. Onge asked to speak with Officers outside regarding the event. Outside, he reiterated the verbiage of the letter, stating that these "artists were performing original tracks." He described their method as using some vinyl records and "cutting" them mixing them over other pre-recorded audio track thus making an original track.

After a lengthy discussion with me as well as Sgt. Barszcz it was decided that the event would be allowed to continue on this night. St. Onge was advised that this event was going to be documented.

Officers re-enter the establishment to continue on with the check. While observing the performers, I heard one male on the stage say over the microphone, "come on, and give it up for this DJ." There was a male on the stage, as described by St. Onge, using laptops, turntables and headphones to perform. I observed him taking records and putting them on turntables. He was then taking this pre-recorded music and mixing it together. Furthermore there was no one singing or any live instruments being played. It was just up-tempo, electronic, pre-recorded music being played. The volume and bass were at a level so loud that it could be heard outside the establishment on a busy street. It should also be noted that around the bar in question there were hundreds of fliers advertising for the nights events. One of these fliers was collected by this officer. Specifically on it, it describes the performer as "Introducing jungle DJing." A copy of this flier has been attached to this report.

I requested a copy of the bar log from the staff member behind the bar. As stated in the licensing rules, all licensees granted extended closing hours must maintain a log containing the name and date of service of which agent or employee, and this log shall be produced by the licensee immediately upon request. When the log was presented, it had not been filled out at all. The last date entered was from the previous night.

Subsequently, for hosting an event outside the parameters of their license, as well as not adequately completing required documents, I am requesting a License Commission Hearing.

Hello.

Tonight's event is original Drum and Bass music, invite-only.

"Drum and Bass" (Genre)

Drum and Bass artists compose original music electronically and will often "cut"/"fade"/"Mix" different songs together in live-improvisation format. Traditionally, Drum and Bass artists perform their compositions using laptops, turntables (sometimes), and headphones. **Laptop computers** are used to playback a mix they have recorded previously using onboard recording software, in this genre of music a laptop computer almost functions as a drummer would in a different genre of music, it keeps the beat. **Turntables** are a staple of Drum and Bass music as they are used to play a recording on vinyl, then it is cut, mixed, and faded back and forth along with the beat (which the laptop is playing). This is a major component of the artist's live improvisation as the new "loops" they write on the spot, using the turntables, can be integrated back into the recording software on the laptop which is playing the beat. **Headphones** are vital when performing this type of live improvisation in order to clearly establish that the new loop is on time with the music, is audible in the overall mix, and to set any desired effect levels that the artist will choose.

Note: "DJ's" will also use a combination of Laptop computers, turntables and headphones for their sets, but they are playing back pre-recorded music from other artists in its entirety. The only similarity is the musical equipment used.

"Under the *fair use* doctrine of the U.S. copyright statute, it is permissible to use limited portions of a work including quotes, for purposes such as commentary, criticism, news reporting, and scholarly reports. **There are no legal rules permitting the use of a specific number of words, a certain number of musical notes, or percentage of a work.** Whether a particular use qualifies as fair use depends on all the circumstances. See FL 102, Fair Use, and Circular 21, *Reproductions of Copyrighted Works by Educators and Librarians.*"

Please do not hesitate to call if you have any questions.

Thank you,

John St. Onge
Manager, Booking Coordinator
The Elevens
413-237-3550

4130RF AND LTD. PRESENTS

Liquid FINALE

1 Year Anniversary & Event Closing Party

October 19, 2013

SOULSLINGER

(Liquid Sky, NYC/Brazil)

Carlos Soulslinger grew up in Brazil but was present in New York during the '70s disco movement and London for both the '80s acid house revolution and the drum'n'bass phenomenon of the '90s. After moving to New York permanently in the early '80s, he introduced jungle DJing stateside and formed the Liquid Sky record store and later, Jungle Sky Records, America's first drum'n'bass label!

REDSHIFT KAE SHARP
MEZSENJAH THE RUSSIAN
TELL MC JOSIAH SCRIBES
ELIJAH DIVINE
HONEYCOMB

4130RF LTD.

120 CLOVER RD. (CLUBMAN) ST. NORTHAMPTON, MA
(OPEN-FAST & SLOWLY SIGN-ES BEFORE 10PM)

Disc jockey

From Wikipedia, the free encyclopedia

Jump to: [navigation](#), [search](#)

"DJ" and "DJs" redirect here. For other uses, see [DJ \(disambiguation\)](#) and [DJs \(disambiguation\)](#).

"Deejay" redirects here. For a person who verbalizes with music in the Jamaican style, see [Deejay \(Jamaican\)](#).



Club Eiffel's DJ Blaze performing at the 2009 Air Force Ball.

A **disc jockey** (abbreviated **D.J.** or **DJ**) is a person who plays recorded music for an audience. Originally, "disc" (sometimes spelled "disk", although this is now uncommon) referred to [phonograph records](#), not the later [compact discs](#). Today, the term includes all forms of music playback, no matter the medium.

There are several types of disc jockeys. Radio DJs or [radio personalities](#) introduce and play music that is broadcast on [AM](#), [FM](#), [shortwave](#), [digital](#) or [internet radio](#) stations. Club DJs select and play music in [bars](#), [nightclubs](#) or [discothèques](#), or at [parties](#) or [raves](#), or even in [stadiums](#). Hip hop DJs select and play music using multiple [turntables](#) to back up one or more [MCs/rappers](#), perform [turntable scratching](#) to create percussive sounds, and are also often [music producers](#) who use [turntablism](#) and [sampling](#) to create backing instrumentals for new tracks. In [reggae](#), the DJ (deejay) is a vocalist who [raps](#), "[toasts](#)", or chats over pre-recorded rhythm tracks while the individual choosing and playing them is referred to as a [selector](#).^[1] [Mobile DJs](#) travel with portable sound systems and play recorded music at a variety of events. Some mobile DJs also serve as the master of ceremonies or MC directing the attention of attendees, and maintaining a room-wide focus on what is included in the event's agenda.^[2] According to a 2012 study, there are approximately 1¼ million professional disc jockeys in the world.^[3]

The title "DJ" is also commonly used by DJs in front of their real names or adopted pseudonyms as a title to denote their profession.

Club DJ equipment may consist of:

- Sound recordings in a DJ's preferred medium (for example, [vinyl records](#), CDs, computer media files, etc.)

- A combination of two devices (or only one, if playback is digital) to play sound recordings, for alternating back and forth to create a continuous playback of music (for example, record players, Compact Disc players, computer media players such as an MP3 player, etc.)
- A multiple sequencer which can mix MIDI tracks with Digital Audio
- A sound system for amplification or broadcasting of the recordings (for example, portable audio system, PA system) or a radio broadcasting system
- A DJ mixer, which is an (usually 2- or 4-channel) audio mixer usually equipped with a crossfader used to smoothly go from one song to another, using two or more playback devices;
- Headphones, or earphones used to listen to one recording while the other recording is being played to the audience, or to listen to both recordings simultaneously; and
- Optionally, a microphone, so that the DJ can introduce songs and speak to the audiences.

Other equipment could or can be added to the basic DJ setup (above), providing unique sound manipulations. Such devices include, but are not limited to:

- Electronic effects units such as delay, reverb, octave, equalizer, chorus, etc. Some club DJs use a subharmonic synthesizer effect which either doubles low frequencies with energy added an octave lower or synthesizes harmonics such that the impression of a very low bass sound is added to the mix.
- A computerised performance system, which can be used with vinyl emulation software to manipulate digital files on the computer in real time.
- Multi-stylus headshells, which allow a DJ to play different grooves of the same record at the same time.
- Special DJ digital controller hardware that can manipulate digital files on a PC or laptop.
- Samplers, sequencers, electronic musical keyboards (synthesizers), or drum machines.
- A Midi controller used to trigger different aspects of DJ software, such as Serato Scratch Live, VirtualDJ and Traktor.



**Commonwealth of Massachusetts
City of Northampton**

**2013 ANNUAL RESTAURANT LICENSE
NO. 33**

For the sale of All Alcoholic Beverages to be drunk on the premises
This is to certify that the License Commission of the City of Northampton has granted and does hereby issue a Restaurant License to sell, expose and keep for sale, all kinds of Alcoholic Beverages, to take effect January 1, 2013 and to expire December 31, 2013.

To: **ONE PEARL STREET INC., D/B/A TULLY
O'REILLY'S AND THE ELEVENS
1-5 PEARL STREET**

Manager: Tully J. McColgan

On the premises described as follows:

Description: 9,000 sq. ft. of first floor consisting of bar area, billiard room, restaurant room, kitchen and restrooms. Five entrances and exits; storage area, office and restrooms in basement.

This license is granted and accepted upon the express condition that the licensee shall, in all respects, conform to all provisions of the Liquor Control Act, Chapter 138 of the General Laws, as amended, and any rules and regulations made there under by the Licensing authorities.

This license is issued on a conditional basis. Any issues identified by the Building Inspector and or Fire Chief during the annual inspection process should be fully resolved within the time parameters determined by these inspectors. Failure to remedy these life safety issues as outlined above, upon application to the License Commission may result in modification, suspension, revocation or cancellation of this license.

IN TESTIMONY WHEREOF, the undersigned have hereunto affixed their official signatures.

NOVEMBER 30, 2012

Northampton License Commission

Hours of Service: 8:00 a.m. to 2:00 a.m. Mon. – Sat.
10:00 a.m. to 2:00 a.m. Sundays

THIS LICENSE EXPIRES DECEMBER 31, 2013

THIS LICENSE MUST BE POSTED IN A CONSPICUOUS PLACE ON THE PREMISES



CITY OF NORTHAMPTON

NO. 426

FEE: \$80.00

2013

ENTERTAINMENT LICENSE

In accordance with the provisions of Chapter 140 of the General Laws as Amended by Chapter 299 of the Acts of 1926, and amendments thereto, LICENSE IS HEREBY GRANTED TO **ONE PEARL STREET, INC. D/B/A TULLY O'REILLY'S AND THE ELEVENS** to conduct the amusements as herein described in connection with the regular business of innholder, common victualler or owner, manager or controller of a cafe, restaurant or other eating or drinking establishment, on the premises located at:

1-5 PEARL STREET, NORTHAMPTON, MASSACHUSETTS

Description of Amusements/Entertainment:

JUKE BOX AND ~~DISC JOCKEY~~**, TELEVISION AND TAPED MUSIC. EFFECTIVE 2/12/99 MODIFICATION TO INCLUDE LIVE JAZZ BANDS OR SWING BANDS, AND SOME ROCK BANDS, BUT NOT OF A HEAVY NATURE. 21+ ONLY, 18+ HAS EXPIRED To be conducted on Sundays between the hours of 1:00 p.m. and 2:00 a.m., and to be conducted on Mondays through Saturdays between the hours of 8:00 a.m. and 2:00 a.m.

This license is granted subject to the provisions of the General Laws, Chapter 140 § 183A and of Chapter 272 §25 through §27 inclusive, and amendments thereto, and shall not be valid for a location other than as herein described.

DATED: September 4, 2013**

NORTHAMPTON LICENSE COMMISSION

Two handwritten signatures are present. The top signature is in dark ink and appears to be "D. Allen". The bottom signature is in blue ink and appears to be "Bridget Smith".

THIS LICENSE EXPIRES DECEMBER 31, 2013

THIS LICENSE MUST BE POSTED IN A CONSPICUOUS PLACE UPON THE PREMISES

****NO DISC JOCKEY, PER NORTHAMPTON LICENSE COMMISSION SEPTEMBER 4, 2013**

Northampton, MA – All Violations**As of October 24, 2013**

Name	Address	Date of Violation	Violation and Decision
One Pearl Street, Inc. d/b/a Tully O'Reilly's and The Elevens License #090000033	1 Pearl Street	October 20, 2013	<p>Violation of Northampton License Commission Decision of September 4, 2013: <i>Violation of 204 CMR Regulations of the Alcoholic Beverages Control Commission 204-2.05 (2) No Licensee for the sale of alcoholic beverages shall permit any disorder, disturbance or illegality of any kind to the place in or on the licensed premises. The licensee shall be responsible therefore, whether present or not.</i> Violation Hearing Date: July 24, 2013</p> <p>Decision: Continued to September 4, 2013</p> <p>Violation Hearing Date Continuance September 4, 2013: Decision: Unanimous vote violation had occurred. Seven (7) day suspension, two (2) days suspended for one (1) year to September 4, 2014, to be dismissed from the record upon no further violations, five (5) days' suspension to be served (September 16-20, 2013) by the licensee. Further sanction to amend Entertainment License #426 to eliminate Disc Jockey.</p> <p>Violation of Northampton License Commission Rules and Regulations, including 2:00 a.m. Closing Rules.</p>
One Pearl Street, Inc. d/b/a Tully O'Reilly's and The Elevens License #090000033	1 Pearl Street	June 16, 2013	<p>Violation of 204 CMR Regulations of the Alcoholic Beverages Control Commission 204-2.05 (2) No Licensee for the sale of alcoholic beverages shall permit any disorder, disturbance or illegality of any kind to the place in or on the licensed premises. The licensee shall be responsible therefore, whether present or not. Violation Hearing Date: July 24, 2013</p> <p>Decision: Continued to September 4, 2013</p> <p>Violation Hearing Date Continuance: September 4, 2013: Decision: Unanimous vote violation had occurred. Seven (7) day suspension, two (2) days suspended for one (1) year to September 4, 2014, to be dismissed from the record upon no further violations, five (5) days' suspension to be served (September 16-20, 2013) by the licensee. Further sanction to amend Entertainment License #426 to eliminate Disc Jockey.</p>
Mananto Enterprises, LLC d/b/a Hotel Northampton, Wiggins Tavern/Coolidge Park Café License #090000019	32-38 King Street and 43-45 Gothic Street	Thursday, February 28, 2013	<p>Compliance Check – Violation of CMR 204-2.05 (2) Permitting an Illegality on the Licensed Premises, to wit MGL Chapter 138 § 34, Sale or Delivery of an Alcoholic Beverage to a Person Under the Age of 21.</p> <p>Violation Hearing Date: April 3, 2013 Decision: Unanimous vote violation had occurred. Two (2) day suspension, suspended for two (2) years to April 3, 2015, to be dismissed from the record upon no further violations.</p>

Hao Chen, Inc. d/b/a Sakura Asian Seafood Buffet License #090000069	261 King Street	Thursday, February 28, 2013	<p>Compliance Check -- Violation of CMR 204-2.05 (2) Permitting an Illegality on the Licensed Premises, to wit MGL Chapter 138 § 34, Sale or Delivery of an Alcoholic Beverage to a Person Under the Age of 21.</p> <p>Violation Hearing Date: April 3, 2013 Decision: Unanimous vote violation had occurred. Four (4) day suspension, suspended for two (2) years to April 3, 2015, to be dismissed from the record upon no further violations. Additional sanction to require all staff be TIPS or ServeSafe trained within 4 months (by September 4, 2013) with proof of certification sent to the License Commission Clerk. The licensee was agreeable to the additional sanction.</p>
Rias Baixas, LLC d/b/a Ibiza Tapas License #090000127	5-7 Strong Avenue	Thursday, February 28, 2013	<p>Compliance Check -- Violation of CMR 204-2.05 (2) Permitting an Illegality on the Licensed Premises, to wit MGL Chapter 138 § 34, Sale or Delivery of an Alcoholic Beverage to a Person Under the Age of 21.</p> <p>Violation Hearing Date: April 3, 2013 Decision: Unanimous vote violation had occurred. Two (2) day suspension, suspended for two (2) years to April 3, 2015, to be dismissed from the record upon no further violations.</p>
Eclipse 186 Main, LLC d/b/a Eclipse 186 Main Street License #090000125	186 Main Street	Sunday, October 30, 2011	<p>Four (4) Counts of Violation of MGL Chapter 138 § 34, Sale, Delivery or Furnishing Alcoholic Beverage to Persons Under Twenty-one Years of Age.</p> <p>Violation Hearing Date: December 7, 2011 -- Unanimous Vote (3-0) of Four (4) Counts of Violation of MGL Chapter 138 § 34, Sale, Delivery or Furnishing Alcoholic Beverage to Persons Under Twenty-one Years of Age.</p> <p>Per agreement of Police Department and Licensee, License #090000125 was turned in to Police Department for a Three (3) Day Suspension to be served December 7-9, 2011. License can be picked up by Licensee on Saturday, December 10, 2011.</p>
VAEP, Inc. d/b/a Mulino's Trattoria and Bishop's Lounge License #090000048	41 Strong Ave	March 8, 2011	<p>204 CMR 2.05 (2) C272 §53 and C274 §6 City of Northampton Ordinance 285-12 C (2)</p> <p>May 4, 2011 -- Unanimous Vote of No Violations, with Licensee agreement to use only plastic for alcoholic beverages on balcony and to securely affix all seating and tables to balcony by May 18, 2011.</p>
Patricia M. Willard d/b/a The Office License #090000045	320 Riverside Drive, Florence	December 4, 2010	<p>Violation of MGL Chapter 138 §12 Serving Alcoholic Beverages between the hours of 1:00 a.m. and 8:00 a.m. on a Secular Day Violation = 2 Yes (Shimel, Rosen) 1 Absent (Levin) Warning, No Sanctions -- February 9, 2011</p>

One Bridge Street, Inc. d/b/a Paradise City Tavern License #090000003	1 Bridge Street	September 19, 2010	<p>Violation of 204 CMR Regulations of the Alcoholic Beverages Control Commission 204-2.05 (2) No Licensee for the sale of alcoholic beverages shall permit any disorder, disturbance or illegality of any kind to the place in or on the licensed premises. The licensee shall be responsible therefore, whether present or not. VIOLATION = 2 YES (SHIMEL, LEVIN), 1 NO (ROSEN)</p> <p>Violation of Northampton License Commission Rules and Regulations, including 2:00 a.m. Closing Rules. UNANIMOUS VOTE = NO VIOLATION</p> <p>Violation of Massachusetts General Laws, Chapter 138, Section 69. No alcoholic beverages shall be sold or delivered on any premises licensed under this chapter to an intoxicated person. VIOLATION = 2 NO (LEVIN, ROSEN), 1 YES (SHIMEL)</p> <p>2 Day Suspension, suspended one year to November 9, 2011</p>
Cooper's Corner License #090000061	31 Main Street, Florence	June 3, 2010	<p>Violation of MGL Chapter 138 § 34, Sale or Delivery of an Alcoholic Beverage to a Person Under the Age of 21.</p> <p>2 Day Suspension, suspended 6 months, to January 23, 2011</p>
Sakura Asian Seafood Buffet License #090000069	261 King Street	June 3, 2010	<p>Violation of MGL Chapter 138 § 34, Sale or Delivery of an Alcoholic Beverage to a Person Under the Age of 21.</p> <p>2 Day Suspension, suspended 6 months, to January 23, 2011</p>
Tully O'Reilly's and The Elevens License #090000033	1 Pearl Street	April 10, 2010 and April 22, 2010	<p>Violation of MGL Chapter 138 § 1 (Restaurant), Obstructing the Clear View of the Interior of a Restaurant.</p> <p>Decision: No Violation</p>
Teapot Restaurant, Inc. License #090000089	116 Main Street	February 14, 2010	<p>204 CMR 2.05 (2), Allowing an Illegality on the Licensed Premises: to wit: a) Gaming, MGL C271 § 2 and b) Serving Alcoholic Beverages After Hours, MGL C138 § 12 and violation of MGL Chapter 138 § 1 (Restaurant), Obstructing the Clear View of the Interior of a Restaurant.</p> <p>2 Day Suspension, suspended one year to March 3, 2011</p>
Bodacious Cowhoy Dining, Inc. d/b/a Side Street Café License #090000113	42 Maple Street, Florence	December 11, 2009	<p>Violation of MGL Chapter 138 § 34, Sale or Delivery of an Alcoholic Beverage to a Person Under the Age of 21.</p> <p>2 Day Suspension, suspended 6 months, to August 5, 2010</p>
Patricia M. Willard d/b/a The Office License #090000045	320 Riverside Drive, Florence	December 11, 2009	<p>Violation of MGL Chapter 138 § 34, Sale or Delivery of an Alcoholic Beverage to a Person Under the Age of 21.</p> <p>2 Day Suspension, suspended 6 months, to August 5, 2010</p>
One Bridge Street, Inc. d/b/a Paradise City Tavern License #090000003	1 Bridge Street	September 5, 2009	<p>204 CMR 2.05 (2), 2 a.m. Closing Rules - patrons</p> <p>204 CMR 2.05 (2), 3 a.m. Closing Rules - personnel</p> <p>2 Day Suspension, suspended 6 months, to April 8, 2010</p>
One Pearl Street, Inc. d/b/a Tully O'Reilly's and the Elevens License #090000033	1 Pearl Street	June 7, 2009	<p>204 CMR 2.05 (2), 2 a.m. Closing Rules - 7 Day Revocation of License to be served August 10-16, 2009</p>
VAEP, Inc. d/b/a Mulino's Trattoria and Bishop's Lounge License #090000048	41 Strong Ave	May 8, 2009	<p>204 CMR 2.05 (2)</p> <p>2 Day Suspension, suspended 6 months, to January 22, 2010</p>

VAEP, Inc. d/b/a Mulino's Trattoria and Bishop's Lounge License #090000048	41 Strong Ave	April 12, 2009	204 CMR 2.05 (2) See May 8, 2009 above
One Bridge Street, Inc. d/b/a Paradise City Tavern License #090000003	1 Bridge Street	February 8, 2009	204 CMR 2.05 (2), 2 a.m. Closing Rules 2 Day Revocation of License served July 22-23, 2009
One Pearl Street, Inc. d/b/a Tully O'Reilly's and the Elevens License #090000033	1 Pearl Street	January 11, 2009 and January 24, 2009	204 CMR 2.05 (2), MGL C265-15A, MGL C265-13A See June 7, 2009 above
Osaka Japanese, Inc. License #090000099	7 Old South Street	January 14, 2009	Compliance Check – MGL Chap 138, Sec 34 – 2Dsusp, 6mo – Sept 6, 2009
Veracruz Foods, Inc. d/b/a La Veracruzana License #090000082	31 Main Street	January 14, 2009	Compliance Check – MGL Chap 138, Sec 34 – 2Dsusp, 6mo-Oct 2, 2009
Annamaru, Inc. d/b/a Pinnocchio's Pizza By The Slice License #090000085	122 Main Street	January 14, 2009	Compliance Check – MGL Chap 138, Sec 34 – 2Dsusp, 6mo-Sept 6, 2009
Bowl New England, Inc. d/b/a Spare Time Northampton License #090000039	525 Pleasant Street	December 27, 2008	2 am Closing Rules – No Sanctions imposed
One Bridge Street, Inc. d/b/a Paradise City Tavern License #090000003	1 Bridge Street	October 5, 2008	2 am Closing Rules – 2Day susp, susp 6mo-May 6, 2009
LanRan LLC d/b/a Paragraph 11(The Dirty Truth)	29 Main Street	August 10, 2007, November 15, 2007, December 8, 2007 and January 5, 2008	MGL Chap138 §1 and 2 am Closing Rules – One day surrender of license on April 21, 2008
Florina Beer & Wine, Inc. d/b/a Florence Beer & Wine	176 Pine Street	June 2006-February 2007	Business sold March 2007
Sunflower, Inc. d/b/a Green Street Café	62-64 Green Street	January 31, 2007	MGL Chap 304 of Acts of 2004 and MGL Chap138 Sec 12 – Surrender license on February 28, 2007 until inspection completed
Satnam Inc. d/b/a Pop's Package Store	1 Market Street	October 25, 2006	MGL 138 Sec 69 – Probation until October 25, 2007
One Pearl Street, Inc. d/b/a Tully O'Reilly's & The Elevens	1 Pearl Street	September 26, 2005	MGL Chap138 Sec 34 and MGL Chap 138, Sec 69- Surrender License January 2-8, 2006, second 7 Day Suspended sentence for One Year
Copper Rose, Inc. d/b/a Mulino's Trattoria, Bishop's Lounge and Brasserie 40-A	41 Strong Avenue	May 23, 2005	2 am Closing Rules – No Violation
Hakkasan LLC d/b/a Silk Road Café	29 Main Street	May 22, 2005	MGL Chap 138, Sec 12 and Northampton Rules & Regs – Suspend 7 Days July 17-23, 2005

Florence Café Corporation d/b/a The Florence Café (Silk City Tap Room)	99 Main Street	May 13, 2005	MGL Chap 138, Sec 12 and 2 am closing rules – No Violation
World War II Veterans Association of Hampshire County d/b/a American Veterans Association of Western Mass	50 Conz Street	April 2, 2005	2 am Closing Rules – No Violation
Zingara LTD d/b/a Packard's Restaurant	14 Masonic Street	March 28, 2005	MGL Chap 138 Sec 12 and 2 am Closing Rules – No Violation
Millennium Package Store	243 Pleasant Street	July 26, 2003	MGL Chap 138 Sec 34 – 3 Day Suspension, suspend one year.
Driscoll & McColgan, Inc. d/b/a City Café	1 Pearl Street	October 13, 2002	MGL Chap 138 Sec 12 – 1 Day Suspension, stayed for six months, forgiven after
Carol Hyde d/b/a Pearl Street Nightclub	10 Pearl Street	March 11, 1998	MGL Chap 140 Sec 183A – modification of Weekday Entertainment prohibiting entry of persons under 21 years when alcohol on premises.
Northampton Bay State Hotel, Inc.	41 Strong Ave	April 10, 1994	MGL Chap 140 Sect 183A – Warning issued
Pearl Street Nightclub	10 Pearl Street	November 16, 1993	No decision letter in file
Bowl New England, Inc. d/b/a Northampton Bowl a/k/a Alley Oups		December 6, 1992	3 Day Suspension, suspended for one year

Proposed Rules for Extended Hours
in the City of Northampton

This proposal for extended hours in the City of Northampton is contemplated for a trial period of six months from the date of approval by the License Commission. At the end of the six month trial period for extended hours the License Commission will meet to consider the termination, continuance, extension or modification of rules for extended hours unless extended hours have been previously terminated in accordance with these rules. *On September 7, 2005, the Northampton License Commission voted to continue with the 2am closing allowance indefinitely and increase the allowance to seven (7) days a week.*

1. Upon a request by a licensee extended closing hours from 1:00 a.m. to 2:00 a.m. on Friday, Saturday, Sunday and Mondays only may be granted to said licensee during the trial period by the License Commission.
2. No admittance of patrons shall be permitted by a licensee after 1:00 a.m. No patron present on the premises on or before 1:00 a.m. who leaves the premises for any reason shall be readmitted to the premises after 1:00 a.m. on that day.
3. All licensees granted extended closing hours must display signs, in a form approved by the License Commission, at each entrance to the licensed premises stating that no admission will be allowed after 1:00 a.m., and at each exit stating no patron leaving the premises will be readmitted after 1:00 a.m.
4. No alcoholic beverages shall be served to patrons after 1:40 a.m.
5. All patrons must vacate the premises no later than 2:00 a.m. No agent or employee of a licensee present for clean-up shall remain on the premises after 2:45 a.m.
6. All licensees granted extended closing hours must have an agent or employee present at each entrance and exit during extended hours to monitor compliance with the foregoing rules. Each agent or employee shall be easily identifiable as an agent or employee of the licensee. Licensees shall maintain a log containing the name and date of service of each such agent or employee. The log shall be produced by the licensee immediately upon request by the License Commission or the Northampton Police Department and shall be admissible in any proceeding before the License Commission relative to an alleged violation of these rules regarding extended hours.
7. It is anticipated that licensees granted extended closing hours will develop a training program for agents or employees during the trial period designed to promote public safety and order.
8. In the event the License Commission determines that a licensee has violated the foregoing rules extended hours for said licensee will be immediately suspended for the remainder of the trial period.

9. The Northampton Police Department may seek the immediate termination of extended hours during the trial period for individual licensees or for all licensees based upon credible evidence of an increased threat to public safety or order resulting from extended hours.
10. All licensees granted extended closing hours must provide the License Commission with a signed written statement acknowledging the foregoing rules for extended hours prior to commencing extended hours.

I have read and acknowledged the above rules and understand that I must comply or I may be in jeopardy of losing the extended closing hour allowance.

John Wiley
Name

2/18/05
Date

owner / President
Title

RULES AND REGULATIONS OF THE NORTHAMPTON LICENSE COMMISSION

1-1: Responsible Liquor Service Certification

Beginning with the 1994 renewal of liquor licenses of all types, all owners of an individually owned liquor license, all partners in a partnership owning a liquor license, or named managers on corporate-owned liquor licenses, shall present to the License Commission a **current** certificate of completion of training in an established responsible liquor service training program accepted by the Commission. The Programs that are currently accepted are:

1. TIPS (10/5/92)
2. TAM (Techniques of Alcohol Management Sponsored by the Massachusetts Package Store Association) (10/5/92)
3. SERVESAFE Alcohol Server Training Program (Sponsored by Massachusetts Restaurant Association) (10/5/92)
4. A.I.M. Workshop (Alcohol Intervention Methods) by Campbell/Trent (2/28/95)
5. Come of Age - Southland Corporation (7-Eleven) Age-Restricted Products Training Program

ADOPTED: October 5, 1992

Amended: February 28, 1995 (Added A.I.M.)
October 6, 1999 (Added "Come of Age")

2-1: Short Term Liquor Licenses - Liability Insurance

In the case of Short Term Liquor Licenses issued by the Commission, a certificate of insurance must be presented showing liquor liability coverage with a minimum cap of **\$250,000 per occurrence** prior to the issuance of any license.

ADOPTED: October 27, 1992

AMENDED: May 3, 2006

3-1: Hours of Operation - Extension

Effective January 1, 1996, each licensed establishment may be granted one extension of hours to 2:00 a.m. per year in addition to the annual New Year's Eve extension. The request must be in writing to the Commission and state the requested date and purpose of the extension. A representative of the establishment must attend the Commission meeting at which the item will be discussed.

ADOPTED: April 18, 1995

3-2: Extension of Hours Permit

"The License Commission establishes an extension of hours permit for a license holder to be open until 2:00 a.m. on Thursday (evening beginning Wednesday) through Monday (evening beginning Sunday) of each week, subject to the following conditions:

1. Service of alcohol to patrons must cease at 12:35 a.m.
2. All alcohol must be removed from tables and patrons at 1:00 a.m.
3. All patrons must be off the premises by 2:00 a.m.
4. Service of food to patrons is encouraged.

Said Extension of Hours permit is effective immediately and shall run through December 31, 1997. Application for renewal of said permit, beginning with calendar year 1998, shall be initiated by the permit holder, said renewal application to be submitted to the Commission by November 30 of every year concurrent with license holder's liquor license renewal application."

ADOPTED: October 16, 1996

4-1: Renewal of License - Tax Delinquency

The License Commission will hold, after notice, a public hearing in November of each year to determine whether or not to grant or to renew the license of each license holder identified by the Notice from the City Tax Collector, all as provided in the Code of City Ordinances No. 14-21. Such hearing will not be held if the License Commission receives in writing a statement from the Collector that the license holder is not delinquent as stated in said notice, or that the license holder has made a satisfactory arrangement with the City for payment of taxes.

ADOPTED: May 23, 1995

5-1: Application Fees

Effective July 1, 2006, the License Commission will impose a \$25.00 application fee, made payable to the City of Northampton, for all Liquor License transactions that require a fee to the A.B.C.C.

ADOPTED: June 7, 2006

6-1: No Alcohol/Early Hours Food Service

Restaurants, clubs, hotels and general-on-premises establishments licensed to sell wine and malt and subject to a 1 A.M. closing, with the approval of the Northampton License Commission, may remain open for the service of food and non-alcoholic beverages only until 3 A.M. Sale and service of alcoholic beverages shall still cease at 1 A.M., with all alcoholic beverages consumed or removed by 1:15 A.M.

ADOPTED: April 11, 2012

LICENSE COMMISSION FOR THE CITY OF NORTHAMPTON

Extracts of Law, Rules and Regulations Governing

Licenses for Sale of Alcoholic Beverages to be DRUNK on Premises as authorized by
Massachusetts General Laws, Chapter 138 § 12

HOURS

1. RESTAURANTS, CLUBS, HOTELS AND GENERAL-ON-PREMISES 1 A.M. CLOSING

Sundays – 10:00 A.M. to 1:15 A.M.*
Weekdays – 8:00 A.M. to 1:15 A.M.*

*Sale of alcoholic beverages is to cease at 1:00 A.M.
All patrons must be off the premises by 1:15 A.M.

Employees must be off the premises by 2:00 A.M., but can remain after 2:00 A.M. only when notification is given to the Police Department.

2. RESTAURANTS, CLUBS, HOTELS AND GENERAL-ON-PREMISES 2 A.M. CLOSING

Sundays – 10:00 A.M. to 2:00 A.M.*
Weekdays – 8:00 A.M. to 2:00 A.M.*

*Sale of alcoholic beverages is to cease at 1:40 A.M.
All patrons must be off the premises by 2:00 A.M.

Employees must be off the premises by 2:45 A.M., but can remain after 2:45 A.M. only when notification is given to the Police Department.

* 2 A.M. Closing is only permitted upon application and approval of the Northampton License Commission*

3. All liquor licenses must be posted under glass on the premises specified so that same may be easily observed.
4. Sale to or purchases by persons under twenty-one years are punishable by a fine or imprisonment or both. Licensee may employ any person eighteen years of age or older for the direct handling and selling of alcoholic beverages. No one under eighteen may be employed for the direct handling and selling of alcoholic beverages or alcohol. (M.G.L., Chapter 138 § 34, as amended.)
5. Each Corporate license must appoint a manager satisfactory to the Commission by a written vote of their directors, giving such manager full authority and control of the premises. Immediate notice of an appointment or vacancy of the manager position must be made to the Commission in writing.
6. The licensed premises shall be subject to inspection by the Police, the Alcoholic Beverages Control Commission, the Northampton License Commission and their authorized agents, the Health Department and Building Department to ascertain the manner in which the licensee conducts his/her business.
7. No alcoholic beverage shall be sold or kept for sale on premises not specified on the license.
8. No alcoholic beverage shall be sold or delivered on any premises licensed under this chapter to an intoxicated person. (M.G.L., Chapter 138 § 69, as amended.)
9. Owners and/or managers of all licensed liquor establishments will be responsible for all violations or infractions of the law occurring on the premises whether present or not.
10. Membership lists of club licenses are to be available at all times. Guest books must be maintained open for inspection at any time. Admittance to members and their guests only. All guests must be accompanied by the member listed as sponsoring them.
11. No gambling permitted on the premises whatsoever. Any use of a coin operated amusement device or other means for gambling purposes shall result in suspension and/or revocation of both the liquor license and any amusement device licenses in addition to charges filed in a court of law.
12. **Entertainment** within the licensed premises must be approved and licensed by this Commission. After written application, the License Commission shall grant such license upon such terms and/or conditions as it may prescribe or may deny such license upon finding that issuance of such license would lead to the creation of a public nuisance or would endanger the public health, safety or order. The License Commission may revoke or suspend a license granted pursuant to the provision of this rule after written notice to the Licensee and a hearing thereon and upon finding that conditions exist upon or about the licensed premises that would have justified denial of the original application for such license.

ALL LIQUOR LICENSES ARE SUBJECT TO SUSPENSION OR REVOCATION FOR ANY VIOLATION OF CONDITIONS OR ANY LAW OF THE COMMONWEALTH OR REGULATION OF THE NORTHAMPTON LICENSE COMMISSION OR THE ALCOHOLIC BEVERAGES CONTROL COMMISSION.

For Further information regarding alcoholic beverage laws, rules and regulations refer to:

1. Massachusetts General Laws, Chapter 138
2. Alcoholic Beverages Control Commission, 100 Causeway Street, Boston MA (617) 727-3040
3. Northampton License Commission, 210 Main Street, Northampton, MA (413) 587-1210

Amended October 6, 2010



NORTHAMPTON LICENSE COMMISSION
September 4, 2013 AGENDA

*Commission Chairman William Rosen, Commissioner Stephanie Levin,
Commissioner Brian Campedelli*

The License Commission will meet at 4:00 P.M., in City Council Chambers, 212 Main Street, Northampton, on the following:

1. Members present/absent: **Commission Chairman William Rosen, Commissioner Stephanie Levin, Commissioner Brian Campedelli**
2. Meeting Called to Order **Chairman Rosen called the meeting to order at 4:03 p.m.**
3. Announcement of Audio/Video Recording of Meeting **The meeting was audio-recorded; the meeting was also recorded by Catuogno Court Reporting, Kristen Edwards.**
4. Public Comment **NONE**
5. **VIOLATION HEARING OF LICENSE #090000033 – Continued from July 24, 2013**
One Pearl Street, Inc. d/b/a Tully O'Reilly's and The Elevens
1-5 Pearl Street, Northampton, MA
Manager: Tully J. McColgan
Date of Violation: June 16, 2013

Commissioner Rosen reminded all present that only Attorney Fernald and Chief Sienkiewicz may present statements. Chief Sienkiewicz had provided all requested documents to Attorney Fernald.

Attorney Fernald referred to the official court report transcription to question the credibility of witnesses for the Northampton Police Department regarding public safety concerns. Attorney Fernald presented a report from Easthampton Police Department which indicates that Easthampton Police were assisting Northampton Police for approximately eight minutes on June 16, 2013. Attorney Fernald presented a report indicating that Massachusetts State Police assisted Northampton Police for approximately 28 minutes on June 16, 2013. Attorney Fernald noted that the licensee continuously followed protocol by calling the Police Department when situations occurred. Attorney Fernald provided to all Commissioners a copy of the licensee's trespass log and police reports, noting the efforts of the licensee and his staff to control the premises at all times. Attorney Fernald noted the many "no problems" reports of the Police Department. Attorney Fernald noted that the licensee calls the Police Department, as requested by the Police Department, and the licensee cannot foresee or predict incidents before they occur. Attorney Fernald noted the many procedures which the licensee and his staff use to control the premises. Attorney Fernald noted the many nights in which patrons dance and enjoy themselves, and leave with no incidents. Attorney Fernald requested that the Northampton License Commission find that no violation occurred on June 16, 2013.

Chief Russell Sienkiewicz noted that Police Department records show that 181 calls in two years resulted in 52 arrests at this establishment. Chief Sienkiewicz noted that only two calls have occurred at this establishment since the July 24, 2013 hearing, with one call being a parking violation; this indicates that the establishment can and did take further steps to control the premises. Chief Sienkiewicz noted the positive changes at the establishment, while reiterating the many calls and incidents at the establishment which have used City and Police resources. Chief Sienkiewicz recommended the following steps to the Northampton License Commission:

- 1) Remove the 2:00 a.m. closing time, change closing time back to 1:00 a.m.
- 2) Allow live music only, with no Disc Jockey, until 1:00 a.m.
- 3) Impose a seven (7) day suspension of the liquor license.

Commissioner Levin moved to close the public hearing; Commissioner Rosen seconded. The motion passed unanimously (3-0).

During deliberation, Commissioner Rosen noted the many incidents which create danger to the community, staff of the licensee, and impose a burden on the Police Department. Commissioner Levin noted the many efforts of the licensee and

his staff to control the premises. Commissioner Campedelli noted that, while he is pro-business and wants the establishment to remain a viable business, the more important issue is the safety of the public, staff and Police.

After deliberation, the Commission found by unanimous vote that *"Violation of Code of Massachusetts Regulations (CMR) 204-2.05: Licensed Premises (2) No licensee for the sale of alcoholic beverages shall permit any disorder, disturbance or illegality of any kind to the place in or on the licensed premises. The licensee shall be responsible therefore, whether present or not"* **had occurred**. The Commission imposed a Seven (7) day suspension, two (2) days suspended for one (1) year to September 4, 2014, to be dismissed from the record upon no further violations, five (5) days' suspension to be served (September 16-20, 2013) by the licensee. A further sanction was imposed to amend Entertainment License #426 to eliminate Disc Jockey.

6. Application for New Common Victualler License and New Entertainment License

Thea Luminous, LLC d/b/a Dobra Tea

186 Main Street, Northampton

Proposed Manager: Allissa Jukiro

Proposed Entertainment: Live music, groups of 1-4 musicians, unamplified; not more than once per week

Allissa and Joel Jukiro were present for the application. Dobra Tea in Northampton will be the 7th franchise in the country.

Commissioner Rosen moved approval of the new Common Victualler license and new Entertainment license; Commissioner Campedelli seconded. The motion passed unanimously (3-0).

7. Application for Short Term Wine & Malt license

Lone Wolf, Inc. d/b/a Lone Wolf

Event: Northampton Cycle Race

Date and Times of Event: Saturday, September 21, 2013 9:00 am – 6:00 pm

Insurance information and Servers' information is pending✓

Fee: \$61.00

Robert Watson was present for the application. This is a fundraiser for the Northampton Cycling Club.

Commissioner Levin moved approval of the license; Commissioner Campedelli seconded. The motion passed unanimously (3-0).

8. Application for Class II Car Dealer Wholesale License

Northampton Auto Wholesale, Inc.

President: Luis Leyva

Business Address: 139 Damon Road, Ste. B2, Northampton, MA

Affidavit of Wholesale License signed; Building Commissioner Approval✓

Luis Leyva was present for the application. No vehicles will be on the premises, this is a wholesale only license.

Commissioner Rosen moved approval of the license; Commissioner Levin seconded. The motion passed unanimously (3-0).

9. Application for Transfer of License, New Officers and Directors, Transfer or Issuance of Stock, New Stockholders, and Change of Manager – License #090000059 Annual Wine & Malt Package Store

Pride Stores, LLC

375 King Street, Northampton, MA

Proposed Manager: Roger Decoteau

Attorney James Channing was present for the application. Roger Decoteau was also present for the application. Attorney Channing explained that the corporate structure of Pride Stores, LLC must be reorganized to be approved at the A.B.C.C. level.

Commissioner Rosen questioned that one principal was not eligible. Attorney Channing confirmed this information. Pride Stores, LLC must appear before Northampton, Springfield, Chicopee and East Longmeadow license commissions and resubmit all documents to reinstate all licenses to their stores.

Mr. Decoteau has completed his TIPS training, with this position as his first experience with alcohol sales. The store will have a full staff of 8.

Commissioner Levin moved approval of the application for Transfer of License, New Officers and Directors, Transfer or Issuance of Stock, New Stockholders, and Change of Manager – License #090000059 Annual Wine & Malt Package Store; Commissioner Campedelli seconded. The motion passed unanimously (3-0).

10. Application for Short Term Wine & Malt license

Academy of Music Theatre

Event: "The Garden of Martyrs" opera

Date and Times of Event: Friday, September 20, 2013 6:30 pm – 10:00 pm

Insurance Information and Servers' Information is pending✓

Request Fee Waiver of \$61.00

Application for Short Term Wine & Malt license

Academy of Music Theatre

Event: National Priorities Project 30th Anniversary

Date and Times of Event: Friday, October 18, 2013 7:00 pm – 10:00 pm

Insurance Information and Servers' Information is pending✓

Request Fee Waiver of \$61.00

Application for Short Term Wine & Malt license

Academy of Music Theatre

Event: "Ruckus: A Cirque Spectacular"

Date and Times of Event: Friday, October 25, 2013 7:00 pm – 9:30 pm

Insurance Information and Servers' Information is pending✓

Request Fee Waiver of \$61.00

Application for Short Term Wine & Malt license

Academy of Music Theatre

Event: Roadhouse Reunion Tour Concert

Date and Times of Event: Saturday, October 26, 2013 7:00 pm – 11:00 pm

Insurance Information and Servers' Information is pending✓

Request Fee Waiver of \$61.00

Application for Short Term Wine & Malt license

Academy of Music Theatre

Event: Young @Heart Chorus fundraiser for Northampton Survival Center

Date and Times of Event: Saturday, November 2, 2013 7:00 pm – 11:00 pm

Insurance Information and Servers' Information is pending✓

Request Fee Waiver of \$61.00

Application for Short Term Wine & Malt license

Academy of Music Theatre

Event: Valley Light Opera's "H.M.S. Pinafore"

Dates and Times of Event: Saturday, November 9, 2013, Friday, November 15, 2013 and Saturday, November 16, 2013 7:00 pm – 11:00 pm

Insurance Information and Servers' Information is pending✓

Request Fee Waiver of \$61.00

Alison Klenja was present for the applications.

Commissioner Levin moved approval of the licenses, with fee waivers; Commissioner Rosen seconded. The motion passed unanimously (3-0).

11. Application for Short Term Wine & Malt license

Trustees of Forbes Library

Event: Artists Reception for Black & White Photography by Rick Miller, Paul Hetzel, and Tristan Chambers

Date and Times of Event: Saturday, September 7, 2013 2:00 pm – 4:00 pm

Insurance Information has been provided; Servers' Information is pending√

Request Fee Waiver of \$61.00

Lisa Downing was present for the application.

Commissioner Rosen moved approval of the license, with fee waiver; Commissioner Levin seconded. The motion passed unanimously (3-0).

12. Application for Short Term All Alcoholic license

St. Elizabeth Ann Seton Parish

Event: Dinner Dance

Date and Times of Event: Saturday, November 2, 2013 4:00 pm – 10:00 pm

Insurance Information is pending; Servers' Information has been provided√

Fee: \$102.00

Stanley Zewski was present for the application. This is the annual roast beef dinner and fundraiser.

Commissioner Levin moved approval of the license; Commissioner Rosen seconded. The motion passed unanimously (3-0).

13. Approval of Minutes of May 1, 2013, June 5, 2013, July 17, 2013 and July 24, 2013

This item was continued to October 2, 2013.

14. NEW BUSINESS – *Reserved for topics that the Chair did not reasonably anticipate would be discussed.*

The Clerk noted an A.B.C.C. notice dated August 5, 2013, of the retirement of William Kelly, General Counsel of A.B.C.C.

The Clerk informed the Commission that a request for approval of the renewal process will be on the October 2, 2013 agenda. This week, the Clerk sent a list of Section 12 licensees to the Building Commissioner and Fire Safety Inspector for annual inspections for license renewals. The Building Commissioner and Fire Safety Inspector have indicated that inspections will begin in October.

At 5:46 p.m., Commissioner Levin moved to adjourn and was seconded by Commissioner Rosen. The motion passed unanimously (3-0).

The next meeting of the Northampton License Commission is October 2, 2013.

*Respectfully submitted,
Mary L. Midura
Executive Secretary*



NORTHAMPTON LICENSE COMMISSION
Tuesday, October 1, 2013 Minutes

*Commission Chairman William Rosen, Commissioner Stephanie Levin,
Commissioner Brian Campedelli*

The License Commission will meet at 3:30 P.M., in City Council Chambers, 212 Main Street, Northampton, on the following:

1. **Members present/absent:** Commissioner William Rosen, Commissioner Stephanie Levin, Commissioner Brian Campedelli
2. **Meeting Called to Order** Chairman Rosen called the meeting to order at 3:30 p.m.
3. **Announcement of Audio/Video Recording of Meeting** The meeting was audio-recorded.
4. **Public Comment** None
5. **Application for Short Term Wine & Malt Liquor License**
Greater Northampton Chamber of Commerce
Event: Northampton Area Young Professionals Meeting
Date and Times of Event: Thursday, October 10, 2013 5:00 p.m. – 8:00 p.m.
Insurance information and Servers' information is pending/
Fee: \$61.00

Kristin Cole was present for the application. Insurance information and servers' information has been provided.

Commissioner Levin moved approval of the license; Commissioner Campedelli seconded. The motion passed unanimously.

6. **Request RE: DJ at The Elevens**
One Pearl Street, Inc. d/b/a Tully O'Reilly's and The Elevens
1-5 Pearl Street, Northampton, MA
Manager: Tully J. McColgan

John St. Onge, manager of The Elevens, stated that he would like clarification from the License Commission regarding the removal of the DJ on the Entertainment license (as of September 4, 2013). Mr. St. Onge stated that the Top 40 music used by the DJ at Tully O'Reilly's is not used at The Elevens.

Commissioner Rosen stated that the Violation Hearing of September 4, 2013 included a sanction recommended by the Police Department to remove the DJ from the Entertainment license, and the license belongs to Mr. McColgan for the entire premise of Tully O'Reilly's and The Elevens, and the entertainment cannot be separated. For this Commission, the license is one premise.

Mr. St. Onge gave the example of one night with musicians, an event that has been running for years, with video and 80's music, and this is a huge event. The licensee would hate to lose this event. There are different types of DJ's, and those who attend this event must pay to get in and do not go into Tully's. The type and nature of the entertainment is like night and day, and the licensee would want to be in compliance with no repercussions.

Commissioner Rosen noted that the Entertainment license now allows live bands only, and precludes other types; based on the Police Department's recommendations, this was voted and adopted on September 4, 2013. Commissioner Rosen stated that, after some time, the licensee might consult the Police Department to make their case for different entertainment.

Mr. St. Onge stated that part of the musicians, or "DJ", appear on the stage with a laptop and turntables to play their own music. Some of these are national tour artists, and the licensee does not know how to approach this. Must the licensee go to the Police Department?

Commissioner Rosen noted that the License Commission does not inhibit the entertainment, however, this situation was remedied by the sanction decided and recommended by the Police Department. The licensee should revisit this situation with the Police Department.

Commissioner Campedelli stated there were gray areas, and his recollection from September 4, 2013 was that Chief Sienkiewicz was not against this licensee applying to this Commission for the DJ on a case-by-case basis; the Chief, and the Commission, want public safety.

Commissioner Levin noted her agreement with her colleagues, and stated there was a clear discussion with the Police to not intend to put the licensee out of business, but to maintain public safety. The licensee should speak to the Police Department.

Mr. St. Onge stated he understood the Commission's decision. Commissioner Rosen noted that the license is issued to Mr. McColgan and the licensee should consult the Police Department.

7. Approval of 2014 Renewal Process, Contingent Upon Inspections and Outstanding Taxes Due

Commissioner Levin moved approval of the renewal process, contingent upon inspections and outstanding taxes due; Commissioner Rosen seconded. The motion passed unanimously (3-0).

8. Approval of Minutes of May 1, 2013, June 5, 2013, July 17, 2013, July 24, 2013 and September 4, 2013

Commissioner Levin moved approval of the minutes; Commissioner Rosen seconded. The motion passed unanimously (3-0).

9. Approval of 2014 Meeting Schedule

The Clerk asked Commissioners to check their schedules for 2014. Commissioner Levin noted that she will be away for the February and March meetings in 2014. Commissioner Rosen noted that the July meeting may need to be changed.

10. NEW BUSINESS – Reserved for topics that the Chair did not reasonably anticipate would be discussed.

The Clerk explained that the following applications were received after agenda publication:

Application for Short Term Wine & Malt Liquor License

Academy of Music Theatre

Event: Pioneer Valley Symphony Orchestra

Date and Times of Event: Saturday, October 19, 2013 4:00 p.m. – 11:00 p.m.

Insurance information and Servers' information has been provided✓

Fee: \$61.00 Fee Waiver Requested

Application for Short Term Wine & Malt Liquor License

Academy of Music Theatre

Event: "The Harvest Jam featuring Big Bad Gina"

Date and Times of Event: Sunday, October 20, 2013 2:00 p.m. – 5:00 p.m.

Insurance information and Servers' information has been provided✓

Fee: \$61.00 Fee Waiver Requested

Application for Short Term Wine & Malt Liquor License

Academy of Music Theatre

Event: "Northampton Live Magazine"

Date and Times of Event: Friday, November 1, 2013 6:00 p.m. – 10:00 p.m.

Insurance information and Servers' information has been provided✓

Fee: \$61.00 Fee Waiver Requested

Alison Klenja was present for the applications.

Commissioner Levin moved approval of the licenses; Commissioner Campedelli seconded. The motion passed unanimously (3-0).

Application for Short Term Wine & Malt Liquor License

Trustees of Forbes Library

Event: Reception Exhibit Mixed Media by Olwen Dowling, Lynne Feinberg, Nancy Haver

Date and Times of Event: Saturday, November 2, 2013 2:00 p.m. – 4:00 p.m.

Insurance information and Servers' information has been provided✓

Fee: \$61.00 Fee Waiver Requested

Application for Short Term Wine & Malt Liquor License

Trustees of Forbes Library

Event: Reception Exhibit Paintings by Karen Iglehart, Marie Welch, Karen Leveille

Date and Times of Event: Saturday, December 14, 2013 2:00 p.m. – 4:00 p.m.

Insurance information and Servers' information has been provided✓

Fee: \$61.00 Fee Waiver Requested

There was no one present for the applications. Ms. Midura noted that the November event would occur before the next License Commission meeting of November 6, 2013.

Commissioner Levin moved approval of the license for November 2, 2013; Commissioner Rosen seconded. The motion passed unanimously (3-0).

The Clerk will notify Ms. Kaufmann to attend the November 6, 2013 meeting at which the License Commission will hear the application for December 14, 2013.

Application for Short Term Wine & Malt Liquor License

Jackson & Connor

Event: Professional Women's Chamber of Western MA

Date and Times of Event: Tuesday, October 8, 2013 5:00 p.m. – 7:00 p.m.

Insurance information and Servers' information has been provided✓

Fee: \$61.00

The Clerk spoke on behalf of Ms. Brewster, of Jackson & Connor – an email from Ms. Brewster to Ms. Midura was diverted to Ms. Midura's quarantined email and not received prior to agenda publication. Ms. Brewster was unable to attend this meeting, as she had to pick up her child from daycare.

Commissioner Levin moved approval of the license, contingent upon application and fee to be provided to the Clerk; Commissioner Rosen seconded. The motion passed unanimously (3-0).

The Clerk will attend an A.B.C.C. Seminar on Thursday, October 10, 2013, in Westfield, MA. License Commissioners are welcome to attend.

At 4:10 p.m., Commissioner Rosen moved to adjourn and was seconded by Commissioner Levin. The motion to adjourn passed unanimously (3-0).

The next meeting of the Northampton License Commission is November 6, 2013.

*Respectfully submitted,
Mary L. Midura
Executive Secretary*



License inspections

11/5/2013 5:57 PM

Louis Hasbrouck <lhasbrouck@northamptonma.gov>

Tue, Nov 5, 2013 at 5:57 PM

To: Mary Midura <mmidura@northamptonma.gov>

Cc: Larry Therrien <fireprevention@northamptonma.gov>

Mary,

As of today, we have done 44 license inspections. 24 still need to be done. 10 establishments passed on the first inspection. The rest of the inspections will be done by November 14th. All of the problems we've seen have been minor, and we expect that all certificates will be issued by December 4th.

Louis Hasbrouck
Building Commissioner
City of Northampton
Town of Williamsburg
(413) 587-1240 office
(413) 587-1272 fax

(City of Northampton E-mail is a public record except when it falls under one of the specific statutory exemptions.)